

BOARD OF ATHLETIC TRAINERS

CHAPTER 498 ⁷⁴

H. B. No. 602

An Act relating to the creation, organization, powers, duties, and procedures of the Texas Board of Athletic Trainers to license athletic trainers; providing penalties; providing effective dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Definitions**Section 1. In this Act:**

(1) "Athletic Trainer" means a person with specific qualifications, as set forth in Section 9 of this Act, who, upon the advice and consent of his team physician carries out the practice of prevention and/or physical rehabilitation of injuries incurred by athletes. To carry out these functions the Athletic trainer is authorized to use physical modalities such as heat, light, sound, cold, electricity, or mechanical devices related to rehabilitation and treatment.

(2) "Board" means the Texas Board of Athletic Trainers.

(3) Nothing herein shall be construed to authorize the practice of medicine by any person not licensed by the Texas State Board of Medical Examiners.

(4) The provisions of this act do not apply to physicians licensed by the Texas State Board of Medical Examiners; to dentists, duly qualified and registered under the laws of this state, who confine their practice strictly to dentistry; nor to licensed optometrists, who confine their practice strictly to optometry as defined by statute; nor to occupational therapists, who confine their practice to occupational therapy; nor to nurses who practice nursing only; nor to duly licensed chiropodists or podiatrists, who confine their practice strictly to chiropody or podiatry as defined by statute; nor to physical therapists who confine their practice to physical therapy; nor to masseurs or masseuses in their particular sphere of labor; nor to commissioned or contract physicians or physical therapists or physical therapists assistants in the United States Army, Navy, Air Force, Public Health and Marine Health Service.

Texas Board of Athletic Trainers

Sec. 2. (a) The Texas Board of Athletic Trainers, composed of three members, is created. To qualify as a member, a person must be a citizen of the United States and a resident of Texas for five years immediately preceding appointment. Two members must be licensed athletic trainers, except for the initial appointees, and one member must be a physician licensed by the state.

(b) The members of the board shall be appointed by the governor with the advice and consent of the Senate. Except for the initial appointees, members hold office for terms of six years. The terms expire on January 31 of odd-numbered years. In making the initial appointments, the gov-

74. Vernon's Ann.Civ.St. art. 4512d, §§ 1-17.

ernor shall designate one member for a term expiring in 1973, one member for a term expiring in 1975, and one member for a term expiring in 1977.

(c) Each appointee to the board shall qualify by taking the constitutional oath of office within 15 days from the date of his appointment. On presentation of the oath, the secretary of state shall issue commissions to appointees as evidence of their authority to act as members of the board.

(d) In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the governor in the same manner as other appointments.

Board Organization and Meetings

Sec. 3. (a) The board shall elect from its members for a term of one year, a chairman, vice chairman, and secretary-treasurer, and may appoint such committees as it considers necessary to carry out its duties.

(b) The board shall meet at least twice a year. Additional meetings may be held on the call of the chairman or at the written request of any two members of the board.

(c) The quorum required for any meeting of the board is two members. No action by the board or its members has any effect unless a quorum of the board is present.

Records

Sec. 4. (a) The board shall keep a record of its proceedings in a book for that purpose.

(b) The board shall keep a complete record of all licensed athletic trainers and shall annually prepare a roster showing the names and addresses of all licensed athletic trainers. A copy of the roster shall be made available to any person requesting it on payment of a fee established by the board as sufficient to cover the costs of the roster.

Powers and Duties of the Board

Sec. 5. (a) The board may make rules and regulations consistent with this Act which are necessary for the performance of its duties.

(b) The board shall prescribe application forms for license applicants.

(c) The board shall establish guidelines for athletic trainers in the state and prepare and conduct an examination for applicants for a license.

(d) The board may employ an executive secretary and other persons necessary to carry out the provisions of this Act. The executive secretary shall have such duties and responsibilities as the board may determine.

(e) The board shall adopt an official seal and the form of a license certificate of suitable design. The board shall have suitable office space to administer the provisions of this Act and keep permanent records.

(f) Before entering on the discharge of the duties of his office, the secretary-treasurer of the board must give bond for the performance of his duty in an amount determined by the board. The premium on the bond shall be paid from any available funds of the board.

(g) The secretary-treasurer of the board shall remit, on or before the 10th day of each month, to the state treasurer all of the fees collected by the board during the preceding month for deposit in the general revenue fund.

(h) The board may authorize all necessary disbursements to carry out the provisions of this Act, including the premium on the bond of the secre-

tary-treasurer, stationery expenses, equipment, and facilities necessary to carry out the provisions of this Act.

(i) The board may issue subpoenas to compel witnesses to testify or produce evidence in a proceeding to deny, revoke, or suspend a license.

Compensation

Sec. 6. The compensation and travel expense allowance for members of the board and its employees shall be provided in the General Appropriations Act.

Fees

Sec. 7. The fees are:

- (1) an athletic trainer examination fee of \$20 for each examination taken;
- (2) an athletic trainer license fee of \$25; and
- (3) an athletic trainer annual license renewal fee of \$10.

Prohibited acts

Sec. 8. No person may hold himself out as an athletic trainer or perform, for compensation, any of the activities of an athletic trainer as defined in this Act without first obtaining a license under this Act.

Qualifications

Sec. 9. An applicant for an athletic trainer license must possess one of the following qualifications:

- (1) have met the athletic training curriculum requirements of a college or university approved by the board and give proof of graduation; or
- (2) hold a degree in physical therapy or corrective therapy with at least a minor in physical education or health which included a basic athletic training course, hold a valid teaching certificate for the State of Texas, and have spent at least two academic years working under the direct supervision of a licensed athletic trainer; or
- (3) have completed at least four years beyond the secondary school level, as an undergraduate or graduate student, as an apprentice athletic trainer under the direct supervision of a licensed athletic trainer. These must be consecutive years of supervision, military duty excepted.
- (4) An out-of-state applicant must fulfill one of the above stated qualifications, (1), (2), or (3), and submit proof of active engagement as an athletic trainer in the State of Texas as set forth in Section 16(b) of this Act.

Issuance of license

Sec. 10. (a) An applicant for an athletic trainer license must submit an application to the board on forms prescribed by the board and submit the examination fee required by this Act.

(b) The applicant is entitled to an athletic trainer license if he possesses the qualifications enumerated in Section 9 of this Act, satisfactorily completes the examination administered by the board, pays the license fee as set in Section 7 of this Act, and has not committed an act which constitutes grounds for denial of a license under Section 12 of this Act.

License renewal

Sec. 11. A license issued pursuant to this Act expires one year from the date of issuance. Licenses shall be renewed according to procedures established by the board and payment of the renewal fee as set in Section 7 of this Act.

Grounds for denial, suspension, or revocation of license

Sec. 12. The board may refuse to issue a license to an applicant or may suspend or revoke the license of any licensee if he has:

- (1) been convicted of a felony or misdemeanor involving moral turpitude, the record of conviction being conclusive evidence of conviction; or
- (2) secured the license by fraud or deceit; or
- (3) violated or conspired to violate the provisions of this Act or rules and regulations issued pursuant to this Act.

Procedures for denial, suspension, or revocation of a license

Sec. 13. (a) Any person whose application for a license is denied is entitled to a hearing before the board if he submits a written request to the board.

(b) Proceedings for revocation or suspension of a license shall be commenced by filing charges with the board in writing and under oath. The charges may be made by any person or persons.

(c) The board shall fix a time and place for a hearing and shall cause a written copy of the charges or reason for denial of a license, together with a notice of the time and place fixed for hearing, to be served on the applicant requesting the hearing or licensee against whom the charges have been filed at least 20 days prior to the date set for the hearing. Service of charges and notice of hearing may be given by certified mail to the last known address of the licensee or applicant.

(d) At the hearing the applicant or licensee has the right to appear either personally or by counsel, or both, to produce witnesses, and to have subpoenas issued by the board and to cross-examine the opposing or adverse witnesses.

(e) The board is not bound by strict rules of procedure or by the laws of evidence in the conduct of the proceedings but the determination shall be founded upon sufficient legal evidence to sustain it.

(f) The board shall determine the charges on their merits and enter an order in a permanent record setting forth the findings of fact and law and the action taken. A copy of the order of the board shall be mailed to the applicant or licensee at his last known address by certified mail.

(g) On application, the board may reissue a license to a person whose license has been cancelled or revoked, but the application may not be made prior to the expiration of a period of six months after the order of cancellation or revocation has become final, and the application shall be made in the manner and form as the board may require.

Procedures for appeal

Sec. 14. (a) A person whose application for a license has been refused or whose license has been cancelled, revoked, or suspended by the board may take an appeal, within 20 days after the order is entered, to any district court of Travis County or to any district court of the county of his residence.

(b) A case reviewed under the provisions of this section proceeds in the district court by trial de novo as that term is used and understood in appeals from justice of the peace courts to the county courts of this state. Appeal from the judgment of the district court lies as in other civil cases.

Penalties

Sec. 15. Any person who violates a provision of this Act is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

Issuance of licenses on the effective date of this act

Sec. 16. (a) Any person actively engaged as an athletic trainer on the effective date of this Act shall be issued a license if he submits proof of five years' experience as an athletic trainer within the preceding 10-year period, and pays the license fee required by this Act.

(b) For the purposes of this section a person is actively engaged as an athletic trainer if he is employed on a salary basis by an educational institution, professional athletic organization, or other bona fide athletic organization for the duration of the institution's school year, or the length of the athletic organization's season, and, performs the duties of athletic trainer as the major responsibility of his employment.

Effective date

Sec. 17. Section 8 of this Act becomes effective on January 1, 1972. The remainder of this Act becomes effective on September 1, 1971.

Emergency

Sec. 18. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended.

Passed by the House on May 7, 1971, by a non-record vote; passed by the Senate on May 22, 1971: Yeas 31, Nays 0.

Approved May 28, 1971.

Generally effective Sept. 1, 1971.

Section 8 effective Jan. 1, 1972.